

HONORABLE THOMAS O. RICE

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

ELF-MAN, LLC,

Plaintiff,

vs.

RYAN LAMBERSON

Defendants.

No. 2:13-CV-00395-TOR

JOINT LR 37.1(b) STATEMENT

Per the requirements of LR 37.1(b), the parties have conferred and attempted to resolve their differences. The discovery has not been provided and the parties each make separate statements on the issue:

1. Plaintiff Elf-Man LLC: Defendant's motion should be denied because (1) Plaintiff has moved to dismiss with prejudice all claims and unconditionally confirmed that it will not seek to enforce the asserted copyright claims (Dkt. No. 59) and Defendant's declaratory judgment claims should be dismissed, resulting in

1 termination of this case, mooted any discovery issue; (2) Defendant's motion
2 cannot be heard because there was never a good faith LR 37.1 conference with
3 counsel of record; (3) objections were timely served, as confirmed by the
4 certificate of service and testimony of prior attorney of record and legal assistant;
5 and (4) Defendant seek privileged or work product materials that need not be
6 produced under well-established legal authority.

7 2. Defendant Ryan Lamberson: Defendant has served three Requests for
8 Production that are the subject of the pending Motion to Compel. The requests are
9 of discoverable information. Plaintiff's Objections were served on Defendant, but
10 were not timely served as the Motion to Compel demonstrates, and, therefore, said
11 objections are waived. Plaintiff has not provided the documents or any privilege
12 log as required by Fed. R. Civ. P. 26(b)(5)(A). Plaintiff claims there was no LR
13 37.1(b) conference, but Defendant's motion certifies the attempts to obtain the
14 documents without Court action prior to filing pursuant to Fed. R. Civ. P. 37(a)(1).
15 Defendant informed Plaintiff of the required LR 37.1(b) Statement (due 14 days
16 before the hearing) on the date of filing of the Motion to Compel and Defendant
17 offered Plaintiff two time-slots today to discuss the matter, but plaintiff declined to
18 be available. Consequently, Defendant provided its statement in advance to
19 Plaintiff and invited the Plaintiff to submit its own statement which it did. Plaintiff
20 cannot claim there was no good faith conference when it declined to participate.

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1 DATED this 30th day of June, 2014.

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3 LEE & HAYES, PLLC

4 By: s/ J. Christopher Lynch

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24 *Counsel for Defendant Ryan Lamberson*

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of June, 2014, I caused to be electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

David A. Lowe lowe@lowegrahamjones.com

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